IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY EIGHTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 15165 of 2004

Between:

1. Byrapuneni Mohan Rao, S/o Pullaiah,
   R/o Chinnakanumalla Village, Singarayakonda Mandal,
   Prakasam District
2. KSathyanarayana, S/o Pullaiah,
   R/o Chinnakanumalla Village, Singarayakonda Mandal,
   Prakasam District

... PETITIONERS

AND

1. The Commissioner of Endowments, Tilak Road, Hyderabad
2. The Deputy Commissioner of Endowments, Guntur, Guntur District
3. The Asst.Commissioner of Endowments, Guntur, Guntur District
4. Sri Varahalakshmi Narasimha Swamy Temple Old Singarayakonda,
represented by its Executive Officer R.Ramakrishna Reddy

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or direction more one in the nature of Writ of Mandamus declaring the action of the respondents in not disposing of the representation of the petitioners dated 5-1-2004 and 9-8-2004 submitted to the 2nd respondent to consider their cases in terms of Section 82 to Sub Section 2 of the A.P.Charitable and Hindu Religious Institutions and Endowment Act of 1987 read with Rule 3 of the A.P.Charitable and Hindu Religious institutions and Endowments Lease of Agricultural Lands Rules 2003 as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to dispose of the representations of the petitioners dated 5-1-2004 and 9-8-2004 submitted to the 2nd respondent forthwith.

Counsel for the Petitioners: MR.M.BRAHMA REDDY

Counsel for the Respondents 1 to 3: GP FOR ENDOWMENTS
Counsel for the Respondent No.4: Smt. N. Indrani

The Court made the following:

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THE HON'BLE MS. JUSTICE G. ROHINI

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W.P.No.15165 of 2004

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ORDER:

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This writ petition is filed aggrieved by the alleged inaction on the part of the respondents to consider the request of the petitioners for sale of the lands belonging to the 4th respondent temple in their favour in terms of Section 82(2) of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, 'the Act').

In the affidavit filed in support of the writ petition, it is stated that the first petitioner is the owner of Ac.1-09 cents of Wet land situated in Sy.No.16/1B of Chinnakanumalla Village and that the 2nd petitioner is the owner of an extent of Ac.0-48 cents of Wet land and Ac.2-09 cents of Dry land situated in Sy.No.89/4 and Sy.No.18/1 respectively of the same village. It is stated that the 4th respondent temple owns an extent of Ac.169-90 cents of land in Sy.No.41 out of which small extents were leased out to the petitioners herein some time back and that they continued as lessees up to the year 1996. It is claimed that after 1996 the 4th

respondent temple has not leased out the said land and the same was kept idle and therefore the petitioners shall be deemed to be the leaseholders of the said lands. While so, the 4th respondent proposed to sell the said lands to third parties in spite of the protest raised by the petitioners and other similarly situated lessees. Aggrieved by the said action of the 4th respondent, some of the lessees filed W.P.No.20773 of 1998, W.P.No.24646 of 2000 and W.P.No.11548 of 2003 and by virtue of the interim directions granted in some of the writ petitions, though the 4th respondent conducted the auction, the auction proceedings were not finalized. While the matter stood thus, Section 82 of A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987 has been amended by Amendment Act No.27 of 2002 whereunder the lessees who are landless poor persons are entitled to purchase the lands in their occupation for a consideration of 75 per centum of prevailing market value of similarly situated lands at the time of purchase. The petitioners claim that by virtue of the said amendment, brought out to Section 82(2) of the Act, which conferred a right on the small farmers to purchase the temple lands, being the small farmers they are entitled to purchase the land, which they have cultivated and even if they are not in a position to purchase the same, they shall be allowed to continue as lessees.

It is stated that the petitioners along with 28 others submitted a representation to the 2nd respondent-Deputy Commissioner of Endowments, Guntur on 05-01-2004 to decide whether the 4th respondent temple comes under the category of Section 6(b) Temples. They also submitted representations dated 05-08-2004 and 09-08-2004 requesting the 2nd respondent to consider their cases either for purchase or for granting lease in respect of the respective lands held by them as leaseholders. It is alleged that the 2nd respondent failed to consider their request. Hence this writ petition.

On behalf of the 4th respondent temple the Manager of the Temple filed a counter affidavit stating that the petitioners are in no way concerned with the land in question and that they were not lessees at any point of time. It is further stated that the 4th respondent Devasthanam conducted a public auction for sale of 55 acres of land in the year 1999 and the remaining land to an extent of Ac.07-70 cents was divided into 33 plots with the permission of the Commissioner of Endowments and a

notification was issued for sale of the said plots. Out of 33 plots, the 4th respondent temple has already sold 31 plots in the public auction conducted on 23-06-2003 and 24-06-2003. The remaining 2 plots i.e., Plot Nos.25 and 33 could not be sold as there were no bidders. It is also stated that challenging the auction conducted for 31 plots to an extent of Ac.94-97 cents some of the villagers filed W.P.No.11548 of 2003 which is still pending. In the said writ petition this Court passed the interim direction as follows:

> *"The proposed auction may go on. Any sale shall be subject to further orders. The amount which is received in the auction shall be kept separately by way of FDs."*

In pursuance of the said order, the 4th respondent has conducted the auction and the auction proceedings have been sent for the approval of the Commissioner of Endowments, Hyderabad, however, the auction has not been confirmed. The highest bidders in the said auction have already deposited 1/3rd of the lease amount with the 4th respondent Devasthanam and same was deposited in the Nationalised Bank. Thus, according to the 4th respondent, the petitioners who have nothing to do with the land have no *locus standi* and the present writ petition is misconceived and liable to be dismissed in limine.

I have heard the learned counsel for the petitioners as well as respondents and pursued the material on record.

As can be seen, the specific case of the petitioners is that their lease in respect of the agricultural land belonging to the fourth respondent temple was subsisting on the date of commencement of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987. It is true that admittedly the said lease came to an end in the year 1996 and thereafter the petitioners did not continue in possession. However, it appears that subsequently the fourth respondent Devasthanam has not granted lease in favour of any third party, but proposed to sell the same.

As a matter of fact, from the averments in the counter-affidavit, it appears that a large extent of land has already been sold in public auction, but by virtue of the interim orders of this Court in W.P.No.11548 of 2003 the sale has not been confirmed yet and the writ petition is still pending.

Be that as it may, whether the petitioners are entitled for the benefit under sub-section (2) of Section 82 of the Act and whether the land claimed to be in their possession by the date of commencement of the Act is still available either for sale or lease are all the aspects required to be considered by the respondents and it is neither possible nor permissible for this Court to express any opinion. Since the petitioners state that they have already made representations dated 5-1-2004 and 9-8-2004 and the same are pending before the respondents, I am of the view that it would be appropriate to direct the third respondent, who is the competent authority under Rule 3 of the Rules made under G.O.Ms.No.379, dated 11-03-2003, to consider the request of the of the petitioners in their representations dated 5-1-2004 and 9-8-2004 and to pass appropriate orders in accordance with law.

Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of with a direction to the 3rd respondent to consider the representations of the petitioners dated 5-1-2004 and 9-8-2004 and to pass appropriate orders in accordance with law, after affording due opportunity to both the petitioner as well as the fourth respondent temple within a period of four weeks from the date of receipt of this order. Till such time, the order of Status Quo granted by this Court on 25-08-2004 as to the nature and possession of the land in question shall be maintained.

The Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J

Dated:28-01-2005

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To

1. The Commissioner of Endowments, Tilak Road, Hyderabad
2. The Deputy Commissioner of Endowments, Guntur, Guntur District
3. The Asst.Commissioner of Endowments, Guntur, Guntur District
4. The Executive Officer, Sri Varahalakshmi Narasimha Swamy Temple Old Singarayakonda.
5. Two C.Cs. to the Government Pleader for Endowments, High Court buildings, Hyderabad. (O.U.T.)

6. Two C.D. copies.